

**FILED**

**FEB 12 2018**

Clerk, U.S. District Court  
Texas Eastern

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**IZET BECIREVIC**

**Plaintiff,**

**VS**

**EDUCATIONAL CREDIT  
MANAGEMENT CORPORATION**

**Defendant,**

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§  
§  
§

**CASE NO: 4:17-CV-632**

**PLAINTIFF'S SECOND AMENDED COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to Federal Rule of Civil Procedure 15 (a) (2) , Plaintiff Izet Becirevic hereby submits his Second Amended Complaint as follows:

**A. Introduction**

1. Plaintiff Izet Becirevic filed this action on September 08, 2017. Plaintiff's in his complaint alleged that Defendant violated his rights pursuant to Fair Debt Collection Practices Act 15 U.C. § 1692, Fair Credit Reporting Act U.S.C. § 1681, and breach of forbearance agreement. (Doc. #1).

2. On September 29, 2017, Defendant Educational Credit Management Corporation filed answer and denied all allegations. (Doc # 5)

3. On December 08, 2017 Plaintiff filed First Amended Complaint. ( Doc #17).

4. On December 28 2017, Defendant Educational Credit Management Corporation filed a Motion to Dismiss. ( Doc # 30)

5. On February 09, 2018 Defendant Educational Credit Management Corporation filed Motion for Summary Judgement. ( Doc # 63)

6. The new complaint maintains the counts and breach of agreement allegations against Defendant Educational Credit Management Corporation and it is for the significant factual and procedural developments that have been discovered through discovery after Plaintiff's First Amended Complaint was filed.

### **B. Jurisdiction**

7. This action arises out of Defendant breach of agreement, breach of duty owed to Plaintiff pursuant to 34 C.F.R 682.410 (b) (5), and student loans misrepresentation and fraud. Supplemental jurisdiction exist for the state law claim pursuant to 28 U.S.C § 1367.

### **C. Parties**

8. Izet Becirevic (" Plaintiff") is an adult residing in Plano, Collin County, State of Texas, and it is a " consumer" as the term defined by 15 U.S.C. § 1692 a (3).

9. Defendant Educational Credit Management Corporation is a foreign corporation with an address of 111 Washington Ave, Suite 1400, Minnesota, MN 55401, a student loan guaranty agency under HEA who, in the course and conduct of its regularly collects or attempt to collect debts due or asserted to be due or owing.

### **C. Statements of Facts**

#### **1. Breach of Borrower Statement of Intent agreement**

10. Plaintiff files this allegations against Defendant for violation of written agreement entered with Plaintiff on December 05, 2016. On or before December 05, 2016 Plaintiff Izet

Becirevic and Defendant Educational Credit Management Corporation entered into written agreement through Borrower Statement of Intent pursuant to Federal Rule of Civil Procedure 9 (c)( d). A true copies of Borrower Statement of Intent in **Exhibit 1**.

11. In the agreement Defendant Educational Credit Management Corporation notified Plaintiff that ECMC did not approve application for discharge of Plaintiff's student two (2) loans and that Plaintiff must a chose one of the following options listed in the agreement which will determine how Plaintiff loans will be handled in the immediate future. The two (2) options in proposed agreement are as follows:

1. Plaintiff must acknowledge student loans debt and if payments are due Plaintiff will begin or resume making those payments.

2. Plaintiff can request Secretary of the Department of Education review Defendant denial decision.

Plaintiff chose a second option and request that Secretary of the Department of Education review ECMC denial decision.

12. In the agreement Defendant agree if Department of Education approve Plaintiff request, ECMC will process loan discharge. If Department of Education denied Plaintiff request, ECMC will return loan to the lender for active repayment status. Defendant did not return Plaintiff's loans to the lender according to the agreement , instead on or about March 21, 2016 Defendant filed a default claim.

13. Plaintiff has performed all his obligations under written agreement entered with Defendant. Defendant, however has not performed its contractual obligations.

14. Defendant nonperformance is a breach of parties agreement. Plaintiff is seeking to recover all damages caused Defendant willfully breach.

**2. Breach of agreement and duty owed to Plaintiff pursuant to 34 C.F.R Section 682.410 (b)(5)**

15. Plaintiff files this complaint against Defendant for breaching contractual obligations to send a notice to Plaintiff within 45 days that default claim is filed as required pursuant to 34 C.F.R Section 682.410 (b) (5).

16. The 34 C.F.R Section 682.410 (b) (5) stated: the guaranty agency after it pays a default claim on loan but before it reports the default to a consumer reporting agency or assesses collections cost against borrower, must within 45 days send a notice to the borrower that guaranty agency has paid default claim to the lender.

17. Plaintiff attached the a true copy of Declaration of Maura Rivard Hoster in **Exhibit 2** and incorporated them as a evidence to this allegations. In Decleration Ms Maura Hoster did not list any records showing to the Court that ECMC send required a notice within 45 days after paid claim to the lender.

18. Defendant noncompliance were done willfully and knowingly, or reckless with disregard of the Plaintiff's rights pursuant to Section 682.410 ( b)(5). Plaintiff is seeking to recover all damages caused by Defendant breach of duty owed to Plaintiff and damages pursuant to 15 U.S.C Section 1681n.

**3. Third Claim for Relief – misrepresentation and fraud in connection with student loan status**

19. Plaintiff filed this allegations against Defendant for misrepresentation of the material of fact in connection with the student loans. Defendant documents and exhibit produced in initial



disclosure are not consistent with the record. Defendant misrepresentation was made either as known to be false or made recklessly without knowledge of its truth in the connections with Plaintiff student loan status.

Plaintiff attached to **Exhibit 3**, the following letters attached to Declaration of Maura Rivard Hoster, and incorporated them as evidence:

- 1.) ECMC's False Certification Appeal Response dated on 09/06/2011.
- 2.) ECMC.s Letter Denying Plaintiff False Certification Discharge dated on 11/28/2016
- 3.) ECMC's Letter Denying Plaintiff False Certification Discharge dated on 11/21/2017

The copies in **Exhibits 3**, shows that ECMC send a letter denying plaintiff false certification discharge on November 28, 2016 and November 21, 2017. ECMC's False Certification Appeal Response is dated on 09/06/2011 and is not consistent with any of ECMC's Letter Denying Plaintiff False Certification Discharge. The Declaration show that Plaintiff was not required to make any payments until or after November 21, 2017. Exhibits in Declarations are so vague and misleading that one can understand when Plaintiff was obligated to acknowledge debt.

Ms Maura Rivard in Declaration stated that all attached ECMC business record in Declaration are true, genuine, correct and authentic copies. Defendant business record in Declaration shows that Plaintiff allegations against Defendant were true and that Defendant unlawfully defaulted Plaintiff student loans and unlawfully reported loan to credit bureaus agency A true Copy Declaration of Maura Rivard -Hoster attached in **Exhibit 2**.

#### **4. Plaintiff Suffered Actual Damages**

20. Plaintiff has suffered and continues to suffer actual damages as a result of "Defendant" unlawful conduct.

As a direct consequences of "Defendant" acts, practices, and conduct, Plaintiff suffered and continue to suffer from anger, anxiety, emotional distress and frustration.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays judgement be entered against Defendant ;

1. Specific Performance. Plaintiff asks the a Court to issue an Order to Defendant to return the loan to the lender as promised.
2. Damages for emotional distress, anxiety and frustration
3. Punitive damages for breach of contract
4. punitive damages pursuant 15 U.S.C Sec. 1681n
4. Award cost of this suit.
5. Such any other relief as may just and proper.

Respectfully submitted;

By: Izet Becirevic

Izet Becirevic

2008 Laurel Lane

Plano TX 75074


Phone: 214-773-5029

**Plaintiff Pro se**

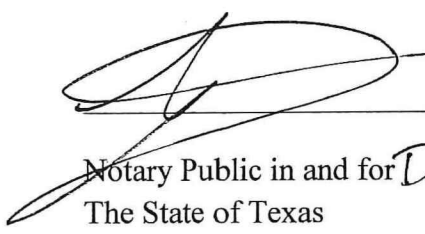
**Verification of Services**

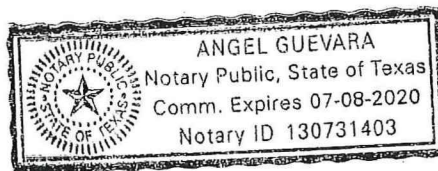
Before me, the undersigned notary, on this day personally appeared Izet Becirevic, the affiant, a person whose identity is known to me. After I administered an oath to affiant, affiant testified:

My name is Izet Becirevic. I have read the copy of foregoing document. The facts stated in it are within my personal knowledge and are true and correct.

  
Izet Becirevic

SWORN TO and SUBSCRIBED before me by Izet Becirevic on this date 12 the day  
of February 2018.

  
Notary Public in and for Dallas, Tx  
The State of Texas



**Certificate of Service**

I certify that true a copy of Plaintiff Second Amended Complaint was served on this date 12<sup>th</sup>, the day of February 2018, by Certificated U.S. mail , return receipt requested, on the following attorney in charge for Defendant Educational Credit Management Corporation

MALONE, AKERLY, MARTIN PLLC  
Attn: Bruce W Akerly  
NorthPark Central, Suite 1850  
8750 N Central Expressway  
Dallas TX 75231

Izet Becirevic

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